

REMARKS

A requirement for restriction was communicated to Applicants in the Office Action dated September 9, 2005 (hereinafter "Office Action"). Claims 1-12 are currently pending in the above-identified patent application.

Applicants are required to elect one group from among the following alleged groups of inventions, identified by the Examiner on page 2 of the Office Action, to be examined: (a) claims 1, 2, 6 and 7 (hereinafter "Group I"); claims 3-5, 11 and 12 (hereinafter "Group II"); and claims 8-10 (hereinafter "Group III"). The Applicants hereby elect Group I, with traverse, for examination.

Applicants traverse the requirement for restriction because the reasons, as provided by the Examiner in the Office Action, alone are not sufficient to establish a proper requirement for restriction. There are two criteria in the Manual of Patent Examining Procedure (MPEP), specifically under MPEP §803, for properly making a requirement to restrict (emphasis added):

(A) The inventions must be independent (see MPEP §802.01, §806.04, §808.01) or distinct as claimed (see MPEP §806.05 - § 806.05(i)); and

(B) There must be a serious burden on the examiner if restriction is not required (see MPEP §803.02, §806.04(a)-(j), §808.01(a) and §808.02).

It is further noted "[i]f the search and examination of an entire application can be made without serious burden, the examiner must examine it on the merits, even though it includes claims to distinct or independent inventions." MPEP §803 (emphasis added).

Applicants concede that the Examiner has properly provided Applicants with distinctions between the above-identified groups of claims, satisfying the first criterion under MPEP 803. However, Applicants' traverse is based on the Examiner's omission of support for a requirement for restriction under the second criterion. There is no evidence in the present Office Action to support a showing of serious burden in performing a search and examination of Applicants' claimed invention. The serious burden criterion has not clearly been established with respect to the distinction between Group I and Group II, Group II and Group III, and Group I and Group III. There could be no serious burden in performing a search and examination of these claims because any reference disclosing a method of forming slack in stator coils is likely also to disclose a structure for implementing the method.

The Examiner's further restriction of Group II also does not satisfy the second criterion of a showing of serious burden. All the claims categorized in Group II require a search for methods of forming slack in stator coils. Nearly all the limitations of independent claim 3 are present in independent claim 11. In performing a search and examination of claim 3, it appears that a search and examination of claim 11 will inevitably result as well. In addition, the Examiner has already taken the step of identifying the class and subclasses in which a search must be conducted. Clearly the Examiner could not have identified the class and subclasses for performing the search had there existed a serious burden in doing so. Moreover, it appears that the Examiner would be required to search both subclasses since they were both identified by the Examiner on page 3 of the Office Action to be drawn to methods of forming slack in stator coils. Therefore, Applicants fail to recognize the serious burden that may be bestowed upon the Examiner in performing a search and examination of Applicants' claimed invention as it currently stands.

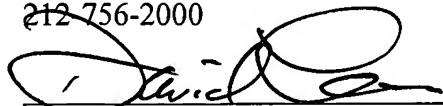
Applicants believe that a proper showing for a requirement for restriction is incomplete and, therefore, not proper for the above-identified patent application. Furthermore, in light of the prosecution history established thus far, it does not appear that any serious burden will likely result. In view of the aforementioned, Applicants request that the requirement for restriction between Groups I, II and II be withdrawn. Should the requirement for restriction be made final, the Examiner is respectfully requested to state on the record that the claims in each group are patentable (novel and nonobvious) over each other.

The Examiner is urged to telephone Applicants' undersigned counsel at the number noted below if it will advance the prosecution of this application, or with any suggestion to resolve any condition that would impede allowance. In the event that any extension of time is required, Applicants petition for that extension of time required to make this response timely. Kindly charge any additional fee, or credit any overpayment, to Deposit Account No. 50-0675, Order No. 051319.0047.

An early and favorable action is respectfully requested.

Respectfully submitted,

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